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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/997,934	11/30/2001	Roger P. Willems	RDH 01/03	5356

7590 09/24/2003

Robert D. Hornbaker
Freilich, Hornbaker & Rosen
10960 Wilshire Blvd., Suite 1220
Los Angeles, CA 90024

EXAMINER

WILLIAMS, MARK A

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 09/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/997,934

Applicant(s)

WILLEMS

Examiner

Mark A. Williams

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koll, US Patent 2,715,243, in view of Willems, US Patent 5,797,635.

A. Regarding claims 1, 2, 4, 5, 7, 8, 10, 11, 29, and 30, Koll provides a sprung surface handle with mounting plate 5, a handle 7 with cross arm/grip 8 and side arms (9,11), and stop means (25, 26) as claimed. A channel is formed in the mounting plate having bearing surfaces therein, and receives first and second turned-in ends as claimed. A spring 18 is provided for biasing the handle adjacent a wall like surfaces. Koll teaches the claimed invention except providing teaching of the mounting plate mounting the handle to a base plate, and the base plate having raised handle-protecting parts as claimed. Willems teaches the general

concept of providing a base plate 40 with raised protecting parts 130 for use with a handle like latching element (see column 3, lines 19-27). It would have been obvious at the time the invention was made to have included in the device of Koll such a modification, as generally taught in Willems, for the purpose of providing added protective means to keep objects away from the handle, thereby preventing the likely-hood of harming a person, object, or the handle itself.

B. Regarding claims 3, 6, 9, and 12, the combination of Koll and Willems does not explicitly teach the stops being on the base plate. It would have been obvious to one having ordinary skill in the art at the time the invention was made to put the stops on the base plate as oppose to the mounting plate, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70. Such a modification would have solved no stated problem and would have provided no unexpected results.

C. Regarding claims 13-28, noting the above rejections, the combination of Koll and Willems discloses the claimed invention except for explicitly teaching a groove engaging an end of the spring member as claimed. Such a modification is very old and well known in the art of such spring biased devices, as evidenced by Hardigg et al., US Patent 5,461,755 (element 64); and such a modification is considered a matter of design choice. It would have been an obvious matter of

design choice to make the different portions of the spring end engaging part of the device of whatever form or shape was desired or expedient. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47. Such a modification is not considered novel and would have produced no unexpected result.

Response to Arguments

3. Applicant's arguments filed 7/9/03 have been fully considered but they are not persuasive.

Applicant argues that Willem does not teach "a raised handle-protecting part" on the base plate, but instead teaches latch-protecting parts. Although Willem does not explicitly teach a handle part in the traditional sense, it is the position of the examiner that Willem is relied on for the teaching of a base plate with raised projecting parts as a way of protecting the hand engaging part of the latch element (or handle like element). It is still believed in view of this teaching, one may elect to modify the device of Koll to include this type of protecting means for the handle of Koll, in a similar manner as Willem provides protecting means for a latch.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Williams whose telephone number is (703) 305-3438. The examiner can normally be reached on Monday through Friday.

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Art Unit: 3676

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-1113.

Mark Williams

9/20/03



GARY ESTREMSKY
PRIMARY EXAMINER